

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JUN 14 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Common Carrier Bureau Seeks Comment)
on A Petition of the California Public)
Utilities Commission and the People of)
The State Of California for Delegation)
of Additional Authority Pertaining)
To Area Code Relief and To NXX Code)
Conservation Measures)

DA 99-928

NSD File L-98-136

CC Docket No. 96-98

To: Chief, Common Carrier Bureau

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the Public Notice of the Federal Communications Commission ("Commission"),^{1/} Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Petition of the California Public Utilities Commission ("CPUC") and The People of the State of California for Additional Authority to implement number conservation measures and code allocation procedures that are outside the scope of the CPUC's delegated authority.^{2/}

In the Petition, the CPUC seeks authority to implement number pooling measures and various code allocation/conservation requirements, asserting that these measures have been necessitated

^{1/} Public Notice, "Common Carrier Bureau Seeks Comment on a Petition of the California Public Utilities Commission and the People of the State of California for Delegation of Additional Authority Pertaining to Area Code Relief and to NXX Code Conservation Measures," DA 99-928, released May 14, 1999 ("Public Notice").

^{2/} Petition of the California Public Utilities Commission and the People of the State of California for Delegation of Additional Authority, filed April 23, 1999 ("Petition").

04 \$0

by the increasing rate of telephone number assignments and the lack of national standards, thus requiring that the CPUC have the ability to move forward on mandatory pooling trials, the establishment of fill rates and sequential numbering and the mandatory return of unused NXXs and number blocks within NXX codes.

Nextel does not disagree with the CPUC's assessment of the current telephone numbering situation and for that reason is currently working with the Commission, the North American Numbering Council ("NANC") and the North American Numbering Plan Administrator ("NANPA"), as well as numerous state commissions, consumer advocates and other carriers, to correct these inefficiencies and improve the number allocation system in the U.S. The Commission recently released its Notice of Proposed Rulemaking ("NPRM") on the establishment of appropriate number conservation measures.^{3/} Nextel will actively participate in this proceeding and encourages the CPUC and other state commissions to do the same. By resolving these numbering issues at the federal level, the states and the industry can ensure a consistent framework for a new, more efficient number assignment and conservation program.

The CPUC's Petition is an attempt to carve the State of California out of the ongoing federal evaluation of numbering system implementation. It would inject additional complexities into the numbering process by adopting potentially inconsistent code allocation rules and requirements. The CPUC should continue

^{3/} Notice of Proposed Rulemaking, CC Docket No. 99-200, released June 2, 1999.

to participate in the ongoing process to resolve these numbering issues on a nationwide, consistent basis. For these reasons, Nextel respectfully requests that the Commission deny the Petition.

II. BACKGROUND

In its 1997 decision regarding the Pennsylvania Public Utilities Commission's decision ordering number assignment measures,^{4/} the Commission affirmed its earlier conclusion that it has plenary authority over administration of the NANPA pursuant to the Communications Act,^{5/} and it delegated only limited authority for states to select among certain code relief alternatives. The PA PUC decision granted states additional authority to order code rationing in narrowly defined circumstances: (a) there is a specific code relief plan in place, (b) the Numbering Plan Area ("NPA") would run out of numbers prior to the implementation of relief, and (c) the industry has been unable to reach a consensus on a rationing plan.^{6/} However, other conservation measures, such as number pooling -- whether thousands block pooling or individual telephone number pooling -- were not delegated to the states because "of the activity occurring at the federal level to develop such national standards" for number pooling.^{7/} As the Commission

^{4/} Memorandum Opinion and Order and Order on Reconsideration, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (released September 28, 1998) ("PA PUC Decision").

^{5/} See Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) at para. 285.

^{6/} PA PUC Decision at para. 24.

^{7/} *Id.* at para. 27.

stated therein, "[i]f each state commission were to implement its own NXX code administration measures without any uniformity or standards, it would hamper the [North American Numbering Plan Administrator's] efforts to carry out its duties as the centralized NXX code administrator."8/

Thus, the Commission reaffirmed the demarcation of jurisdiction regarding numbering issues. At the same time, however, the Commission indicated that it would entertain state requests for additional authority to implement conservation measures outside the scope of their delegated authority.9/ The Commission stated that it is "interested in working with state commissions that have additional ideas for innovative number conservation methods that this Commission has not addressed, or state commissions that wish to initiate number pooling trials the implementation of which would fall outside of the guidelines we adopt in this Order."10/ Such requests, however, would have to demonstrate "a proposed conservation method [that] will conserve numbers and thus slow the pace of area code relief, without having anti-competitive consequences. . ."11/

8/ *Id.* at para. 33.

9/ *Id.* at para. 31.

10/ *Id.*

11/ *Id.*

Additionally, the Commission has initiated a proceeding to investigate number conservation measures at the federal level.^{12/} After the recent work of the NANC and its Number Resource Optimization working group ("NRO") to develop nationwide number pooling standards and other code conservation mechanisms, the Commission sought industry comment on the NRO's conclusions and has released an NPRM seeking comment on the development of national number pooling and conservation measures. By conducting this investigation at the federal level, the Commission can ensure the adoption of nationwide standards rather than a patchwork of state rules and regulations that would be "impossible" for the NANPA to administer.^{13/}

III. DISCUSSION

A. Mandatory Pooling Trial

In the Petition, the CPUC proposes to implement a mandatory number pooling trial, asserting that a voluntary trial is not sufficient since some carriers would choose not to participate.^{14/} Although the CPUC asserts that it would provide a specific pooling plan once the Commission grants it authority to move forward with its own mandatory pooling trial, the CPUC has provided no specificity regarding its proposal, e.g., whether it

^{12/} Public Notice, "Common Carrier Bureau Seeks Comment on North American Numbering Council Report Concerning Telephone Number Pooling and Other Optimization Measures," NSD File No. L-98-134, DA 98-2265, released November 6, 1998.

^{13/} See PA PUC Decision at para. 33.

^{14/} Petition at pp. 8-10.

would impose a 1,000 block pooling plan or individual number pooling. To the extent that carriers are Local Number Portability ("LNP")-capable and can thereby participate in number pooling, the CPUC's proposal could improve efficiencies in the code allocation process in California. Nextel, therefore, would not oppose the CPUC's request to impose number pooling if (a) the CPUC provides a specific pooling plan to the Commission prior to implementation, (b) its pooling trial is limited only to LNP-capable carriers, and (c) such pooling is not a substitute for area code relief. Because wireless carriers are not LNP-capable and will not be prepared to implement LNP until well after the wireline industry, the CPUC would have to ensure that wireless carriers continue to have access to 10,000 number blocks on a timely basis. Additionally, similar to the mandatory pooling trial in Illinois, the CPUC should be required to establish a specific relief plan, *i.e.*, split or an overlay, that can be implemented expeditiously should telephone numbers exhaust despite the use of number pooling.

B. Auditing and Enforcement Measures

The CPUC's request for authority over the allocation and enforcement of telephone numbers and their usage is an attempt to step into the shoes of NANPA and establish California's own rules and requirements regarding the assignment of telephone numbers. Fill rates and the mandatory return of unused telephone numbers fall within the NANPA's authority, and the CPUC has provided no reason why it should be allowed to overtake these responsibilities

and create inconsistent guidelines for carriers operating in California.

NANPA is charged with allocating numbers to carriers, pursuant to consistent nationwide standards, and enforcing compliance with those standards. As the Commission has already concluded, allowing states to impose their own requirements could result in a hodge-podge of enforcement guidelines, making it "impossible" for the NANPA to administer the rules and carriers to comply with them. NANPA has initiated a process to improve its guidelines and enforcement. The CPUC should participate in this process and assist in improving the efficiencies of NANPA guidelines on a nationwide basis. Nothing in the CPUC's proposal avoids the inconsistencies and potential complexities that would result from its own set of code allocation and enforcement rules.

IV. CONCLUSION

To the extent described above, Nextel opposes the CPUC's proposals and requests that the Commission encourage California and other states to participate in the Commission's proceeding to establish new code conservation processes, and work with NANPA and

the industry to resolve code allocation inefficiencies on a nationwide basis.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert S. Foosaner", is written over a horizontal line.

Robert S. Foosaner
Vice President and
Chief Regulatory Officer

Lawrence R. Krevor
Senior Director - Government Affairs

Laura L. Holloway
Director - Government Affairs

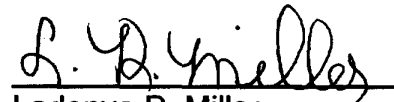
Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, Virginia 20191
703-433-4141

Date: June 14, 1999

CERTIFICATE OF SERVICE

I, Ladonya D. Miller, hereby certify that on the 14th day of June, 1999, caused a copy of the attached Comments of Nextel Communications, Inc. to be served hand-delivery to the following:

Al McCloud
Network Services Division
Portals II
445 12th Street, SW
Washington, D.C. 20554


Ladonya D. Miller